

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**LUCILLE MITCHELL,  
Plaintiff,**

**v.**

**APJ ENTERPRISES, INC.,  
d/b/a COMFORT KEEPERS,  
Defendant.**

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**GAFKAY LAW, PLC  
BY: JULIE A. GAFKAY (P53680)**

**Attorney for Plaintiff**

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**“DEMAND FOR JURY TRIAL”**

**There is no other civil action between the parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between the parties, arising out of the same transaction or occurrence as alleged in this Complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a Judge in this Court.**

**PLAINTIFF’S COMPLAINT AND JURY DEMAND**

Plaintiff states:

**JURISDICTION AND PARTIES**

1. Plaintiff, Lucille Mitchell (hereinafter “Plaintiff”), is a citizen of the United States and resides in the State of Michigan.
2. Defendant, APJ Enterprises, Inc., d/b/a Comfort Keepers (hereinafter “Defendant”), is a Domestic Profit Corporation located in the County of Genesee, State of Michigan.
3. This is a civil action brought pursuant to a Federal claims under 42 U.S.C. § 1981.
4. Plaintiff also asserts a state claim against Defendant under the Michigan Elliott-Larsen Civil Rights Act.
5. This Court has federal question jurisdiction over this case under 28 U.S.C. § 1331 and supplemental jurisdiction over Plaintiff’s State claim.

**BACKGROUND FACTS**

6. Plaintiff is African American.
7. At all pertinent times, Plaintiff’s position with Defendant is Manager/CNA

8. Plaintiff began her employment with Defendant on or about November, 2017.
9. At all relevant times the general manager for Defendant was Christine Stephens.
10. On or about October 29, 2018, Defendant was scheduling CNAs for the upcoming Sunday on or about November 4, 2018.
11. Plaintiff offered to cover the Sunday client and was told she could not because the daughter wanted someone who was White.
12. Plaintiff also asked to cover a new client on or about Saturday, November 3, 2018, and was told by the Regional Manager, Sara Labadie (hereinafter "Labadie"), she could not cover that client because of her race; instead Defendant sent a White CNA.
13. Plaintiff was doing her management duties in the office for Defendant the week of November 5, 2018, and Mayme O'Brien the External Client Care Coordinator said as she was doing the scheduling, she needed two White CNA's for an assignment.
14. Plaintiff was denied assignments based on race.

**COUNT I-42 USC § 1981 RACE DISCRIMINATION CLAIM  
AGAINST DEFENDANT**

15. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 14 as fully stated above.
16. Defendant intentionally discriminated against African-American employees, including Plaintiff, when it required that no African-American employees care for a certain Caucasian patients.
17. As a direct and proximate result of Defendant's aforesaid violations of Plaintiff's rights, Plaintiff has suffered and sustained reassignment, loss of hours and emotional distress and mental anguish, past and future injuries to feelings including extreme embarrassment and humiliation, past and future outrage, and damages to reputation.

**COUNT II-MICHIGAN ELLIOTT-LARSEN CIVIL RIGHTS ACT  
RACE DISCRIMINATION CLAIM AGAINST DEFENDANT AS TO  
DENIAL OF BENEFITS, PRIVILEGES, TERMS AND  
CONDITIONS OF EMPLOYMENT**

18. Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 17 as fully stated above.

19. At all material times, Plaintiff was an employee, and Defendant was her employer, covered by and within the meaning of the Michigan Elliott-Larsen Civil Rights Act, MCL § 37.2101, et seq.
20. The said racial discrimination related to Plaintiff's employment with Defendant and she was denied the enjoyment of all benefits, privileges, terms and conditions of that employment relationship because of her race.
21. Accordingly, Plaintiff hereby asserts a claim for race discrimination against Defendant pursuant to the Michigan Elliott-Larsen Civil Rights Act.
22. As a direct and proximate result of Defendant's aforesaid violations of Plaintiff's rights, Plaintiff has suffered and sustained reassignment, loss of hours and emotional distress and mental anguish, past and future injuries to feelings including extreme embarrassment and humiliation, past and future outrage, and damages to reputation.

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment against Defendant for the following relief:

1. An award to Plaintiff of compensatory damages sufficient to compensate her mental anguish and emotional distress, embarrassment and humiliation, and damage to her professional reputation as a result of Defendant's actions.
2. An award to Plaintiff of punitive damages against Defendant as a result of the reckless indifference with which it violated Plaintiff's rights under the law.
3. An award to Plaintiff of the costs and disbursements of this action, including reasonable attorney fees pursuant to statute.

**JURY DEMAND**

Plaintiff demands a Jury Trial in the above cause.

Respectfully submitted;

GAFKAY LAW, PLC

Dated: 1/22/2019

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